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INTERGOVERNMENTAL NEGOTIATING
COMMITTEE FOR A CONVENTION ON
BIOLOGICAL DIVERSITY

Seventh negotiating session/Fifth session of INC
Nairobi, 11-19 May 1992

SECOND INFORMAL NOTE BY THE CHAIRMAN OF THE INC AND THE EXECUTIVE DIRECTOR OF UNEP REGARDING POSSIBLE COMPROMISE FORMULATIONS FOR THE FIFTH REVISED DRAFT CONVENTION ON BIOLOGICAL DIVERSITY

At the fourth plenary meeting of the sixth negotiating session/fourth session of the Intergovernmental Negotiating Committee (INC) for a Convention on Biological Diversity, the Chairman of the INC informed the Committee "that after consultation with the Executive Director on the outcome of this session, they would jointly try to help the final phase of the negotiations by coming up with some possible compromise formulations based on existing language in brackets". (UNEP/Bio.Div/N6-INC.4/4, paragraph 46).

As a result, the Chairman and the Executive Director circulated under a covering letter dated 10 April 1992 an informal note in three languages (English, French and Spanish) with the hope that this would assist the INC in completing its work at the seventh negotiating session/fifth session of INC.

At the request of a number of delegations for ease of referencing, the informal proposals of the Chairman of the INC and the Executive Director of UNEP have been incorporated into the fifth draft text of the Convention. The combined, revised text, containing the informal proposals, is attached hereto, with the language taken from the fifth draft Convention being presented in normal typeface and that of the compromise formulations in bold type.

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Preamble

The Contracting Parties,

(1) *Recognizing* that humanity shares the earth with other forms of life and accepting that these should exist independently of their benefits for humanity unless proven to be dangerous to human life,

(2) *Affirming* that the conservation of biological diversity is a common concern of humankind,

(3) *Stressing* that in exercising their sovereign rights over their biological resources States have a responsibility to use and develop them in a sustainable manner and to conserve biological diversity, (former paragraph 8)

(4) *Recalling* the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21, which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction",

(5) *Conscious* of the ever growing environmental, ecological, genetic, scientific, aesthetic, recreational, cultural, educational, social and economic values of biological diversity and its components, (former paragraph 3)

(6) *Concerned* that biological diversity is being seriously reduced and that some species are threatened with extinction through, inter alia, habitat destruction, pollution, human population growth, unsustainable exploitation of some species and the unlawful taking of flora and fauna, leading to the deterioration in quality of life to the detriment of both present and future generations, [1]

(7) *Noting* that remedying damage to biological diversity is important and aware that it is vital to anticipate, prevent and attack the causes of biological diversity reduction or loss at their source,

(8) *Stressing* to this end that where the threat of reduction or loss of biological diversity is significant, lack of full scientific certainty shall not be a reason for postponing the avoidance or minimization of the threat,

(9) *Recognizing* that the fundamental requirement for the conservation of biological diversity is the in-situ conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings while ex-situ measures, preferably in the country which provides the biological resources or the country of origin also have an important role to play,

(10) *Recognizing* to this end the need to set aside protected areas of natural habitat for the preservation of biological diversity and to pursue sustainable development outside these areas through planning and management which conserves biological diversity to the maximum extent possible,

(11) *Aware* of the benefits from the sharing and diffusion of knowledge about biological diversity, its uses and developments, technologies and practices favourable to its conservation, (former paragraph 13)

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[1] This paragraph is a merger of paragraphs 5, 6 and 7 of the fifth revised draft Convention.

(12) *Recognizing* the close and traditional dependence of many local communities and indigenous populations on biological resources, their continuing interest in their conservation, and the need to reward their knowledge and innovations associated with the conservation and wise use of biological diversity and its components, (former paragraph 4)

(13) *Acknowledging* that special provision is required to meet the needs of developing countries, including access to relevant technologies and provision of additional financial resources, bearing in mind that these resources can be expected to make a substantial difference in the world's ability to address the loss of biodiversity,

(14) *Accepting* that the developed countries and large industrial enterprises, including transnational corporations, have benefited from their significant role in the development and use of biological resources, (former paragraph 15)

(15) *Considering* that these countries and enterprises can help avoid additional costs and burdens for developing countries which forgo exploitation of their biological resources when acting in accordance with this Convention, (former paragraph 16)

(16) *Stressing* the need for States, international organizations and non-governmental organizations to promote the conservation of biological diversity and the sustainable use and development of its components and the importance to this effect of cooperation among themselves, thus strengthening friendly relations among States and contributing to peace and security for all peoples, [2]

(17) *Agreeing* that existing international arrangements dealing with biological resources do not cover, in spite of the progress achieved, all aspects of biological diversity, the sources of threats to it and the wise use and development of biological resources, (former paragraph 19)

Have agreed as follows:

Article 1. Objectives

The objective of this Convention is to conserve the maximum possible biological diversity for the benefit of present and future generations and for its intrinsic value. This is to be achieved by ensuring that the use of biological resources is sustainable; by providing new and additional funding to the developing countries, Parties to this Convention; by providing for the equitable sharing of costs and benefits between developed and developing countries, Parties to this Convention; and by providing economic and legal conditions favourable for the transfer of the relevant technologies, in particular, to the developing countries, Parties to this Convention.

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[2] This paragraph is a merger of paragraphs 16, 17 and 18 of the fifth revised draft Convention.

Article 2. Use of Terms for the Purpose of this Convention [3]

[For the purposes of this Convention:

"ALIEN SPECIES" means a species occurring in a particular country or area outside its historically known natural range, as a result of intentional or accidental dispersal by human intervention.

"BIOLOGICAL DIVERSITY (OR BIODIVERSITY)" means the variety of and variability among living organisms and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

BIOLOGICAL RESOURCES includes genetic resources, organisms or part thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.*

BIOTECHNOLOGY means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.*

"CONSERVATION OF BIOLOGICAL DIVERSITY" means the preservation (or integral protection), maintenance, sustainable use, recovery and enhancement of the components of biological diversity.

"CONSERVATION": see conservation of biological diversity.

COUNTRY PROVIDING GENETIC MATERIAL/RESOURCES means the country supplying genetic resources collected from *in-situ* sources, including populations of both wild and domesticated species, or taken from *ex-situ* sources, which may or may not have originated in that country.*

COUNTRY OF ORIGIN OF GENETIC RESOURCES means the country regarding which there is scientific evidence [4] that the genetic resource originated in it.

"DOMESTICATED OR CULTIVATED SPECIES" means species in which the evolutionary process has been influenced by humans to meet their needs.

"ECOSYSTEM" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as an ecological unit.

"ENDANGERED SPECIES" means a species in danger of extinction and whose survival is unlikely if the causal factors continue operating.
"ENDEMIC SPECIES" means a species whose natural geographic distribution is restricted to a specific area or country.

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[3] Terms followed by "*" were proposed by a sub-working group of Working Group II but not discussed by the Working Group itself. The terms not followed by "*" were reviewed by a sub-working group of Working Group I. The recommendations of that sub-working group are contained in appendix I to the present draft Convention.

[4] An explanation of the content of scientific evidence has to be included as a footnote or in the body of the text.

EX-SITU CONSERVATION means the conservation of components of biological diversity (genetic material, organisms, populations) outside their natural surroundings.*

GENETIC MATERIAL means any material of plant, animal, microbial or other origin containing functional units of heredity.*

GENETICALLY MODIFIED ORGANISMS means organisms in which the genetic material has been altered in a way that does not occur naturally by mating, recombination, or natural selection.*

GENETIC RESOURCES means genetic material of actual or potential value.*

"HABITAT" means the place or type of site where an organism or population naturally occurs.

"INDIGENOUS POPULATIONS": it is advised that the word "populations" be substituted by the word "people" when used for humans.

"INDIGENOUS SPECIES" means a species occurring in the wild in a particular area or country, within its known natural range.

IN-SITU CONSERVATION means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated species, in the surroundings where they have developed their distinctive properties.*

"NONTERRESTRIAL SPECIES" means organisms not relying on the land for a significant aspect of their life cycle.

"PROTECTED AREA" means a geographically defined area which is designated or regulated, and managed to achieve specific conservation objectives.

"RATIONAL USE OF BIOLOGICAL DIVERSITY" means the use of components of biological diversity in a way and at a rate that does not lead to their long term decline.

"SPECIES THREATENED WITH EXTINCTION": see threatened species.

"TERRESTRIAL SPECIES" means organisms relying on the land for a significant aspect of their life cycle.

"THREATENED SPECIES" means species that are either endangered or vulnerable.

"UTILIZATION/USE OF BIOLOGICAL DIVERSITY": see rational use of biological diversity.

"WILD SPECIES" means a species which has not been deliberately modified by humans.

"(WILDLIFE) CORRIDORS" means routes or avenues to ensure completion of life cycles and unimpeded migrations and gene flows.]

Article 3. Fundamental Principles and General Obligations

The following fundamental principles shall guide the Contracting Parties in the achievement of the objectives of this Convention:

1. The conservation of biological diversity is a common concern of all humankind and requires cooperation by all Contracting Parties. International

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1. The conservation of biological diversity is a common concern of all humankind and requires cooperation by all Contracting Parties. International cooperation, in addition to national efforts, is essential for that conservation.

2. Each Contracting Party as a State has the sovereign right to exploit its own biological resources pursuant to its own policies.

3. Each Contracting Party as a State has the responsibility for:

(a) The conservation and sustainable use of its biological resources; and

(b) Ensuring that activities within its jurisdiction or control do not cause damage to the biological diversity of other States or of areas beyond the limits of national jurisdiction.

4. Countries Parties to this Convention and providing genetic material located within their national jurisdiction shall share in benefits from research and development which make use of that material. Technology related to conservation of biological diversity and the sustainable use and development of its components is to be transferred to these Parties under fair and most favourable conditions (This is the language of the London Amendment to the Montreal Protocol.)/most favourable conditions, including concessional and preferential terms (This is the language of "The Cartagena Commitment" dated 27 February 1992 adopted at the eighth session of UNCTAD.) or be developed jointly by the owners of the resources and those with financial, scientific and technical resources.

5. The additional burden on Parties which are developing countries arising out of protection of their biological diversity requires new and additional funding to be provided by Parties which are developed countries through a multilateral financial mechanism to be controlled by the Parties to this Convention.

6. Access to genetic resources or to technology related or contributing to the conservation of biological diversity which are within the jurisdiction or control of a State, Party to this Convention, is to be on the basis of mutual agreement.

7. Developing the capacity to fulfil the obligations under this Convention by Parties who are developing countries will depend upon the effective provision of access to and transfer of technology in accordance with Articles 15 and 18 and of financial resources in accordance with Articles 19 and 20 of the present Convention.

Article 4. Implementation Measures

1. Each Contracting Party shall, in accordance with the particular conditions and capabilities in each country:

(a) Adopt legislative and other appropriate measures to ensure the conservation of the maximum possible biological diversity, in particular threatened, species, populations and varieties, (from Article 7 (k)) within the area under its jurisdiction or control and the sustainable use of the components of that diversity (from Article 4 (1));

(b) Adopt measures for the recovery and rehabilitation of endangered species and for their reintroduction into their natural habitats under appropriate conditions (from Article 8 (c));

(c) Adopt legislative and other appropriate measures to ensure that activities within its jurisdiction or control do not cause damage to the biological diversity of other States or areas beyond the limits of national jurisdiction (from Article 4 (1));

(d) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this Convention relevant to the Contracting Party concerned (from Article 5 (1,a)); and

(e) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies (from Article 5 (1,b)).

2. Each Contracting Party may adopt stricter regulations than those provided for in the present Convention.

Article 5. Identification and Monitoring

Each Contracting Party shall, as far as possible and as appropriate in particular for the purposes of Articles 6 to 8:

(a) Identify components of biological diversity with respect to which it exercises sovereignty, sovereign rights or jurisdiction important for its conservation and sustainable use, having regard to those identified by a decision of the Conference of the Parties and in other international agreements to which it is a party;

(b) Monitor through sampling and other techniques, the components of biological diversity identified pursuant to paragraph (a), and paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use;

(c) Identify processes and activities with respect to which it exercises sovereignty, sovereign rights or jurisdiction which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity having regard to those processes and activities identified by a decision of the Conference of the Parties and monitor through sampling and other techniques their effects;

(d) Maintain and organize data derived from identification and monitoring activities pursuant to paragraphs (a), (b) and (c) of this Article;

(e) Cooperate with other Contracting Parties, directly or where necessary through relevant organizations, in identifying and monitoring components of biological diversity, processes and activities pursuant to paragraphs (a) to (d) of this Article, in respect of transboundary matters and areas beyond national jurisdiction.

Article 6. In-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate:

(a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity. Criteria for identifying the latter areas shall be approved by the Conference of the Parties at its first meeting;

(b) Develop where necessary guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;

(c) Regulate or manage biological resources whether within or outside protected areas with a view to ensuring their conservation and sustainable use;

(d) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;

(e) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, *inter alia*, through the development and implementation of plans or other management strategies;

(f) Manage the release of genetically modified organisms which have adverse effects on the in-situ conservation and sustainable use of biological diversity, according to criteria to be adopted by the Conference of the Parties at its first meeting;

(g) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;

((h) Endeavour to provide economic incentives, legislation, and the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;

(i) Subject to its national legislation, respect, record, protect and promote the wider application of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity with the involvement of the holders of such knowledge, innovations and practices and to share equitably the benefits arising from the utilization of such knowledge, innovations and practices;

Article 7. Ex-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate, and for the purpose of complementing in-situ measures where providing adequate in-situ facilities is impracticable or not feasible:

(a) Adopt measures for the ex-situ conservation of and establish and maintain facilities on components of biological diversity identified pursuant to Article 5 preferably in the country possessing such components or, when proven, in the country of origin;

(b) Regulate the collection of biological resources from natural habitats for ex-situ conservation purposes so as not to threaten ecosystems and in-situ populations of species and to ensure that they are not exploited for commercial purposes without mutual agreements.

Article 8. Sustainable Use of Components of Biological Diversity

Each Contracting Party shall, as far as possible and as appropriate:

(a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;

(b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;

(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with sustainable use requirements;

(d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced;

(e) Encourage cooperation between governmental authorities and private sector in developing methods for sustainable use of biological resources.

Article 9. Incentive Measures

1. Each Contracting Party shall, as far as possible and as appropriate, adopt economic and social policies which act as incentives to encourage the conservation and sustainable use of biological diversity.

2. National plans prepared in accordance with Article 4 may, where appropriate, contain case studies of the value of biological diversity. The Conference of the Parties shall establish at its first meeting a group of experts to develop guidelines for determining the value of biological diversity.

Article 10. Research and Training

The Contracting Parties taking into account the special needs of developing countries shall:

(a) Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and provide support for such education and training for the specific needs of developing countries;

(b) Promote and encourage research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries Parties to this Convention, <u>inter alia</u>, in accordance with decisions of the Conference of the Parties to address issues including the:

(i) Role of the components of biological diversity in the functioning of ecosystems;

(ii) Impact of natural and human factors on the conservation of biological diversity;

(iii) Application of existing knowledge for sustainable use of biological diversity;

(iv) Development of technologies and other measures for the conservation and sustainable use of biological diversity including of biotechnology;

(c) In keeping with the provisions of Articles 15, 17 and 19, promote and cooperate in the use of scientific advances in biological diversity research in developing methods for conservation and sustainable use of biological resources.

Article 11. Public Education and Awareness

The Contracting Parties shall:

(a) Promote and encourage understanding of the importance of and the measures required for the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes;

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

Article 12. Minimizing Adverse Impacts

Each Contracting Party, as far as possible and as appropriate, shall:

(a) Introduce appropriate procedures requiring assessment of the environmental effects of proposed projects that are likely to have significant adverse effects on biological diversity whether within or beyond the limits of national jurisdiction with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;

(b) Introduce appropriate arrangements to ensure that the environmental consequences whether within or beyond the limits of national jurisdiction of programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;

(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation about activities under their jurisdiction or control which are likely significantly to adversely affect the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements as appropriate;

(d) When responsible for activities which threaten or cause significant loss of biological diversity in another Contracting Party, assist that Contracting Party in kind or through financing in avoiding that threat or taking necessary remedial actions. The Conference of the Parties shall decide at its first meeting on criteria that define the nature of the threat and the magnitude of what constitutes a significant loss;

(e) Notify immediately, according to procedures to be established by the Conference of the Parties at its first meeting, in the case of imminent or grave danger or damage resulting from activities originating in areas under their jurisdiction or control to biological diversity, within the area under jurisdiction or control of other States or in areas beyond the limits of national jurisdiction or control, the potentially affected State and the Secretariat of this Convention of such danger or damage and initiate appropriate actions to prevent or minimize such danger or damage;

(f) Cooperate with other Contracting Parties to establish procedures for international cooperation for the control and mitigation of damage or restoration of biological diversity when the affected Party or the Party of origin of the damage is not able to address it individually according to the criteria to be established by the Conference of the Parties at its first meeting;

(g) Support and cooperate in the development and implementation of national and international arrangements for emergency responses to activities or events whether caused naturally or otherwise which present a grave and imminent danger to biological diversity;

(h) The Contracting Parties shall cooperate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage to biological diversity.

Article 13. Global Lis

A Global List of Biogeographic Areas of Particular Importance for the Conservation of Biological Diversity and a Global List of Species Threatened with Extinction on a Global Level shall be established pursuant to a decision of the Conference of the Parties and according to procedures to be determined by it on the basis of scientific advice of one of its subsidiary bodies.

Article 14. Access to Genetic Resources

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.

3. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.

4. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.

5. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by or, when proven, originating in other Contracting Parties with the full participation of, and where possible, in such Contracting Parties.

6. Each Contracting Party shall take the appropriate measures, in accordance with Articles 15 to 18 and where necessary through the financial mechanism established by Articles 19 and 20, to ensure the provision and/or facilitation of fair and equitable sharing of the results of research and development and the benefits arising from the utilization of genetic resources with the Contracting Parties providing or, when proven, of origin of such resources.

Article 15. Access to and Transfer of Technology

1. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.

2. Access to and transfer of technology referred to in paragraph 1 to developing countries shall be provided and/or facilitated under fair and most favourable conditions (<u>This is the language from the London Amendment to the Montreal Protocol.</u>)/most favourable conditions including concessional and preferential terms (<u>This is the language from the Cartagena Commitment dated 27 February 1992 adopted at the eighth session of UNCTAD</u>) and, where necessary, in accordance with the financial mechanism established by Articles 19 and 20.

3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide or, when proven, are the origin of genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms.

4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 of this Article.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of the present Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to the objectives of this Convention.

Article 16. Exchange of Information

1. The Contracting Parties shall facilitate the exchange of information relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.

2. Such exchange of information shall include exchange of [publicly available] results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 15, paragraph 1. It shall also, where feasible, include repatriation of information.

(The Chairman and Executive Director will come back to this after clarifying the legal connotation of the bracketed words.)

Article 17. Technical and Scientific Cooperation

1. The Contracting Parties shall promote international technical and scientific cooperation in the field of conservation and sustainable use of biological diversity, where necessary through the appropriate international and national institutions.

2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular developing countries, in implementing this Convention, *inter alia*, through the development and implementation of national policies. In promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources development and institution building.

3. The Conference of the Parties, at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.

4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.

5. The Contracting Parties shall, subject to mutual agreement, promote the establishment of joint research programmes and joint ventures for the development of technologies relevant to the objectives of this Convention.

Article 18. Handling of Biotechnology and Distribution of its Benefits

1. Each Contracting Party shall take appropriate measures to ensure and/or facilitate the participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide or, when proven, are the origin of the genetic resources for such research.

2. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provided or, when proven, are the origin of genetic resources are provided access to the results and benefits arising from biotechnologies based upon these resources. Such access shall be on mutually agreed terms.

3. Each Contracting Party shall require any natural or legal person under its jurisdiction who intends to introduce in another Contracting Party modified organisms resulting from biotechnology which may have an adverse impact on the conservation and sustainable use of biological resources in that Contracting Party to obtain the advance informed agreement of that Contracting Party. Such agreement shall be in accordance with simple, easy to implement procedures to be established by the Conference of the Parties at its first meeting.

4. Each Contracting Party providing modified organisms resulting from biotechnology shall require any natural or legal person under its jurisdiction to provide any available information about the use and safety regulations required by that Contracting Party in handling those organisms, as well as any available information on the potential adverse impact of the specific modified organisms resulting from biotechnology concerned to the Contracting Party into which those organisms are to be introduced.

5. The application of biotechnology may involve risks and requires regulatory approaches involving safeguards for health and the environment.

6. Patent systems may have unwanted socio-economic effects for developing countries and small farmers.

7. The maintenance of a wide genetic base is necessary for biotechnology to be able to contribute to conservation and sustainable use of biological diversity.

Article 19. Financial Resources

1. Each Contracting Party undertakes to provide, in accordance with its capabilities, national plans, priorities and programmes, financial support and incentives in respect of those activities which are intended to achieve the objective of this Convention.

2. (The Chairman and Executive Director will come back with a proposal regarding this paragraph.)

3. The extent to which developing countries are able to fulfil their obligations under this Convention will be subject to the availability of the resources referred to in paragraph 2 above.

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Article 20. Financial Mechanism

1. The Contracting Parties, pursuant to the objectives of this Convention and taking into consideration the special needs of developing countries, hereby establish a financial mechanism, including a fund/special account, to provide the financial resources which Contracting Parties that are developing countries require to meet all agreed incremental costs for fulfilling their obligations under this Convention, access to and transfer of technology referred to in Article 15 and the benefits of the provisions of paragraph 6 of Article 14. Contributions shall be paid according to a formula to be adopted by the Conference of the Parties at its first meeting. Additional contributions may also be made by developed countries and by other countries and sources.

2. The fund/special account shall be administered through an agency to be decided by the Conference of the Parties at its first meeting and may be reviewed thereafter by subsequent meetings of the Conference of the Parties.

3. Pursuant to the objectives of this Convention, the Conference of the Parties at its first meeting shall decide on the detailed criteria and guidelines for access to and utilization of the Fund, including monitoring and evaluation of such utilization and an indicative list of incremental costs that are incurred by developing country Parties.

4. The Conference of the Parties shall review the effectiveness of the financial mechanism established under this Article, including the criteria and guidelines referred to in paragraph 3, not later than two years after the entry into force of this Convention and thereafter on a regular basis.

5. The Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity.

(In this connection, the INC may wish to consider the formulation agreed in the text adopted by the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change.)

Article 21. Relationship with Other International Conventions

1. The provisions of the present Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement compatible with the conservation and sustainable use of biological diversity.

Article 22. Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within three months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat. At each ordinary meeting, it shall adopt a budget for the financial period until the next ordinary meeting.

4. The Conference of the Parties shall keep under review the implementation of the present Convention, and, for this purpose, shall:

(a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 25 and consider such information as well as reports submitted by any subsidiary body;

(b) Review scientific and technological advice on biological diversity provided by the subsidiary bodies established in accordance with Article 24;

(c) Consider and adopt, as required, in accordance with Articles 29 and 30, amendments to this Convention and its annexes;

(d) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the Protocol concerned;

(e) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;

(f) Consider and adopt, as required, protocols in accordance with Article 28;

(g) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention;

(h) Invite the Parties to any international agreement relating to the conservation and sustainable use of biological diversity to agree on arrangements for facilitating joint actions, coordination, and exchange of information.

(i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 23. Secretariat

1. A Secretariat is hereby established. Its functions shall be:

(a) To arrange for and service meetings of the Conference of the Parties provided for in Article 22;

(b) To assist the Conference of the Parties and its subsidiary bodies in performing their functions;

(c) To assist in facilitating and promoting transfer of technology and knowledge and technical cooperation pursuant to the provisions of Articles 15 and 17 of the present Convention;

(d) To maintain any global list that may be established pursuant to the provisions of Article 13 of the present Convention;

(e) To perform the functions assigned to it by any Protocol;

(f) To prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties;

(g) To coordinate with other relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(h) To perform such other functions as may be determined by the Conference of the Parties.

2. The secretariat functions will be carried out on an interim basis by the Secretariat of the United Nations Environment Programme until the completion of the first ordinary meeting of the Conference of the Parties held pursuant to Article 22. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing, competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 24. Subsidiary Bodies for Scientific and Technological Cooperation

The Conference of the Parties shall at its first meeting establish such subsidiary bodies with a balanced regional representation for providing scientific and technological advice as required for the implementation of the Convention. The Conference of the Parties shall define the mandates of these subsidiary bodies.

Article 25. Reports

Each Contracting Party shall, at intervals to be determined by the Conference of the Parties at its first meeting, submit to the Conference of the Parties, reports on the actions which it has taken for the implementation of this Convention and its view on the effectiveness of those actions and on the state of components of biological diversity within the limits of its national jurisdiction.

Article 26. Operational Cost

Expenses incurred in respect of the technical and scientific cooperation referred to in Article 17 shall be borne by the Biological Diversity Fund. The expenses incurred in operating the Biological Diversity Fund shall also be borne by that Fund.

Article 27. Settlement of Disputes

1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

2. If the Parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:

(a) Arbitration in accordance with the procedure laid down in Part 1 of Annex I;

(b) Submission of the dispute to the International Court of Justice.

4. If the Parties to the dispute have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with Annex I, part 2 unless the Parties otherwise agree.

5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

Article 28. Adoption of Protocols

1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.

2. Protocols shall be adopted at a meeting of the Conference of the Parties.

3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting.

Article 29. Amendment of the Convention or Protocols

1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention or to any protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval.

4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the one hundred and eightieth day after the deposit of their instruments of ratification, acceptance or approval by at least two-thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the [ninetieth] [one hundred eightieth] day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.

5. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 30. Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to any protocol:

(a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 29;

(b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that Party subject to paragraph (c) below;

(c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.

4. If an additional annex or an amendment to an annex is related to an amendment to this Convention or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to this Convention or to the protocol concerned enters into force.

Article 31. Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention or to any protocol shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 32. Relationship Between the Convention and Its Protocols

1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to the Convention.

2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any meeting of the Parties to that protocol.

Article 33. Signature

This Convention shall be open for signature at ... by all States and any regional economic integration organizations from ... until ....

Article 34. Ratification, Acceptance or Approval

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Contracting Party to this Convention or any protocol without any of its member States being a Contracting Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Contracting Party to the Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligation under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.

3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

Article 35. Accession

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

3. The provisions of Article 34, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

Article 36. Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the [twentieth] instrument of ratification, acceptance, approval or accession.

2. Any protocol shall enter into force on the ninetieth day after the date of deposit of the number of instruments of ratification, acceptance, approval or accession, specified in that protocol, has been deposited.

3. For each Contracting Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the [twentieth] instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Contracting Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that Contracting Party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that Contracting Party, whichever shall be the later.

5. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 37. Reservations

[No reservations may be made to this Convention.]

Article 38. Withdrawals

1. At any time after two years from the date on which the present Convention has entered into force for a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

3. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is Party.

Article 39. Depositary

The Secretary-General of the United Nations shall assume the functions of Depositary of this Convention and any protocols.

Article 40. Authentic Texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at..... on the .....day of.....

/...

Annex I

Part 1

ARBITRATION

Article 1

The claimant party shall notify the Secretariat that the parties are referring a dispute to arbitration pursuant to Article 30 of the Convention. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the Protocol, the interpretation or application of which are at issue. [If the parties do not agree on the subject matter of the dispute before the President of the tribunal is designated the arbitral tribunal shall determine the subject matter.] The Secretariat shall forward the information thus received to all Contracting Parties to the Convention or to the Protocol concerned.

Article 2

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the President of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.

3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 3

1. If the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General who shall make the designation within a further two-month period.

Article 4

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention, any protocols concerned, and international law.

Article 5

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

Article 6

[The arbitral tribunal may, at the request of one of the parties, recommend essential interim measures of protection.]

Article 7

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, information and facilities; and

(b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 8

The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

Article 9

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the costs of the tribunal shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its costs, and shall furnish a final statement thereof to the parties.

Article 10

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 11

The tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

Article 12

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

Article 13

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

Article 14

The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

Article 15

The final decision of the arbitral tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

Article 16

The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

Article 17

Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either party for decision to the arbitral tribunal which rendered it.

Part 2

CONCILIATION

Article 1

A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

Article 2

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.

Article 3

If any appointments by the parties are not made within two months of the date of the request to create a conciliation commission, the Secretary-General of the United Nations shall, if asked to do so by the party that made the request, make those appointments within a further two-month period.

Article 4

If a President of the conciliation commission has not been chosen within two months of the last of the members of the commission being appointed, the Secretary-General of the United Nations shall, if asked to do so by a party, designate a President within a further two-month period.

Article 5

The conciliation commission shall take its decisions by majority vote of its members. It shall, unless the parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the parties shall consider in good faith.

Article 6

A disagreement as to whether the conciliation commission has competence shall be decided by the commission.

Appendix

RECOMMENDATIONS OF THE WORKING GROUP I SUB-WORKING GROUP ON DEFINITIONS AND USE OF TERMS

I. Recommended text for inclusion in Article 2

"ALIEN SPECIES" means a species occurring in a particular country or area outside its historically known natural range, as a result of intentional or accidental introduction through human intervention.

"BIOLOGICAL DIVERSITY (OR BIODIVERSITY)" means the genetic, taxonomic and ecological variability among living organisms; this includes the variety and variability within species, between species and of biotic components of ecosystems.

"CONSERVATION OF BIOLOGICAL DIVERSITY" means the preservation (or integral protection), maintenance, sustainable use, recovery and enhancement of the components of biological diversity. [1]

"CONSERVATION": see conservation of biological diversity.

"DOMESTICATED OR CULTIVATED SPECIES" means species in which the evolutionary process has been influenced deliberately by humans to meet human needs.

"ECOSYSTEMS" means a dynamic complex of plant, animal and micro-organism communities and their non-living environments interacting as a functional unit.

"ENDANGERED SPECIES" means a species in danger of extinction and whose survival is unlikely if the casual factors continue operating.

"ENDEMIC SPECIES" means a species whose natural geographic distribution is restricted to a specific area or country.

"EX-SITU CONSERVATION" means the conservation of components of biological diversity (genetic resources, organisms, populations) outside their natural surroundings.

"HABITAT" means the place or type of site where an organism or population naturally occurs.

"IN-SITU CONSERVATION" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings. [2]

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[1] There was a strong feeling in the sub-working group that "sustainable use" should be excluded from this definition; however, since at this stage in the draft text of the Convention it is not decided whether conservation and sustainable use should go together, the sub-working group recommends that this matter be dealt with later.

[2] The sub-working group considered a definition of "*in-situ* conservation" formulated by Working Group II which includes domesticated species. No consensus was reached on whether that definition should be accepted, whether domesticated species should be dealt with in a separate definition, or whether the present formulation should stand.

/...

"PROTECTED AREA" means a geographically defined area which is designated, or regulated, and managed to achieve specific conservation objectives.

"(WILDLIFE) CORRIDORS" means routes or avenues to ensure completion of life cycles and unimpeded migrations and gene flows. [3]

II. Other Recommendations

The sub-working group recommends:

1. The exclusion from Article 2 of the terms:

   - "INDIGENOUS SPECIES", "NONTERRESTRIAL SPECIES", "RATIONAL USE OF BIOLOGICAL DIVERSITY", "TERRESTRIAL SPECIES", and "WILD SPECIES", as they no longer appear in the text of the draft Convention.

   - "THREATENED SPECIES" and "SPECIES THREATENED WITH EXTINCTION", since they need not be defined, as is the case with IUCN and CITES.

   - "INDIGENOUS POPULATIONS", since it does not fall within the terms of reference of this sub-working group.

2. That if the term "UTILIZATION/USE OF BIOLOGICAL DIVERSITY" is to be defined in Article 2, it should be dealt with from the point of view of sustainable use of biological diversity.

3. That the term "REGIONAL ECONOMIC INTEGRATION ORGANIZATION", defined as "an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it", as well as other terms such as "MONITOR" and "SPECIES" (including marine species, as suggested by one delegation) be dealt with should Working Group I so decide.

4. That the term "SIGNIFICANT" as proposed by one delegation should not be defined.

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[3] There was a feeling that the text of this term should be finalized after finalization of the text of Article 7 of the draft Convention.